COMMONWEALTH OF VIRGINIA

RICHMOND CITY CIRCUIT COURT
Civil Division
400 NORTH 9TH STREET
RICHMOND VA 23219

Summons

To: NATIONAL RAILROAD PASSENGER CORPORATION DBA AMTRAK
SERVE: CT CORPORATION SYSTEM
REGISTERED AGENT
1015 15TH STREET NW SUITE 1000
WASHINGTON DC 20005

Case No. 760CL17001677-00

The party upon whom this summons and the attached complaint are served is hereby notified that unless within 21 days after such service, response is made by filing in the clerk's office of this court a pleading in writing, in proper legal form, the allegations and charges may be taken as admitted and the court may enter an order, judgment, or decree against such party either by default or after hearing evidence.

Appearance in person is not required by this summons.

Done in the name of the Commonwealth of Virginia on, Monday, April 10, 2017

Clerk of Court: EDWARD F JEWETT

by ______________________ (CLERK/DEPUTY CLERK)

Instructions:

Hearing Official:

Attorney's name: NEWBY, JOHN R
804.358.6741

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF RICHMOND

JANET MARTIN,

Plaintiff,

v. Case No. ____________

NATIONAL RAILROAD PASSENGER CORPORATION d/b/a AMTRAK,

SERVE: CT Corporation, Registered Agent
1015 15th Street NW
Suite 1000
Washington, DC 20005

Defendant.

COMPLAINT

COMES NOW the Plaintiff, Janet Martin, by counsel, and in support of and for her Complaint against the Defendant, National Railroad Passenger Corporation d/b/a Amtrak (hereinafter "Amtrak"), respectfully states as follows:

1. The Plaintiff, Janet Martin, is an individual who, at all times relevant to this matter, was a resident of the Commonwealth of Virginia.

2. Amtrak is a corporation, organized under the laws of the District of Columbia, doing business in the Commonwealth of Virginia.

3. On November 26, 2015, the Plaintiff, Janet Martin, was a paying, ticketed passenger on Amtrak Train #92, traveling from Petersburg, VA to Washington, D.C.

4. After the Amtrak Train #92 arrived at the Petersburg station, Mrs. Martin attempted to board the train. An Amtrak employee assisted the plaintiff with boarding. The Amtrak employee negligently lifted the plaintiff from the platform onto the train.

5. The Amtrak employee carelessly and recklessly lifted the plaintiff onto the train in such a way as to cause her leg to come into contact with a metal grate and resulting in a severe laceration.

COUNT ONE – NEGLIGENCE OF A COMMON CARRIER

6. Plaintiff incorporates, by reference, the allegations set forth in paragraphs 1-5 above as if fully set forth herein.

7. As the owner of a rail service providing rail transport to paying passengers, Amtrak is a common carrier owing its passengers the highest duty of care.

8. As a paying, ticketed individual, Mrs. Martin was a passenger to whom Amtrak owed the highest duty of care.

9. Through the actions of its employee and agent, Amtrak breached this duty by:

a. failing to exercise the highest duty of care;

b. carelessly and recklessly lifting the plaintiff onto the train in a manner that caused severe injury;

10. As a direct and proximate result of Defendant Amtrak's negligence, Plaintiff Janet Martin suffered serious and permanent bodily injuries, physical pain, mental anguish, and inconvenience, and may endure the same in the future.

11. As a direct and proximate result of Defendant Amtrak's negligence, plaintiff incurred expenses for medical care, therapy, rehabilitation and medication, and may incur the same in the future.

WHEREFORE, under Count One, the Plaintiff, Janet Martin, demands judgment in her favor against the Defendant, National Railroad Passengers Corporation, in the amount of FOUR HUNDRED THOUSAND DOLLARS ($400,000.00), her costs expended in this matter, and prejudgment interest accruing from November 26, 2015.

COUNT TWO – ORDINARY NEGLIGENCE

12. Plaintiff incorporates, by reference, the allegations set forth in paragraphs 1-5 above as if fully set forth herein.

13. At all times relevant to this matter, Amtrak owed a duty to exercise ordinary care.

14. Through the actions of its employee and agent, Amtrak breached this duty by:

a. failing to exercise ordinary care;

b. carelessly and recklessly lifting the plaintiff onto the train in a manner that caused severe injury;

15. As a direct and proximate result of Defendant Amtrak's negligence, Plaintiff Janet Martin suffered serious and permanent bodily injuries, physical pain, mental anguish, and inconvenience, and may endure the same in the future.

16. As a direct and proximate result of Defendant Amtrak's negligence, plaintiff expended sums of money for medical care, therapy, rehabilitation and medication, and may incur the same in the future.

WHEREFORE, under Count Two, the Plaintiff, Janet Martin, demands judgment in her favor against the Defendant, National Railroad Passengers Corporation, in the amount of FOUR HUNDRED THOUSAND DOLLARS ($400,000.00), her costs expended in this matter, and prejudgment interest accruing from November 26, 2015.

Prayer for Jury Trial

The Plaintiff, Janet Martin, hereby requests a trial by jury on all issues herein.

JANET MARTIN

By ____________________
Counsel

John R. Newby, Esquire (VSB#47227)
TRONFELD WEST & DURRETT
4020 West Broad Street
Richmond, Virginia 23230
(804) 358-6741
JNewby@twdinjurylaw.com

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND

JANET MARTIN,	:	
	:	
Plaintiff,	:	
	:	
v.	:	**Case No.: 760CL17001677-00**
	:	
NATIONAL RAILROAD PASSENGER CORPORATION, d/b/a AMTRAK,	:	
	:	
	:	
Defendant.	:	

DEFENDANT NATIONAL RAILROAD PASSENGER CORPORATION d/b/a AMTRAK'S ANSWER AND AFFIRMATIVE DEFENSES

COMES NOW, the Defendant National Railroad Passenger Corporation d/b/a Amtrak (hereinafter "NRPC" or "Amtrak") by and through its counsel, BONNER KIERNAN TREBACH & CROCIATA, LLP and hereby answers Plaintiff's Complaint as follows:

FIRST DEFENSE

The Complaint fails to state a claim upon which relief may be granted.

SECOND DEFENSE

Defendant Amtrak did not commit the wrongs alleged.

THIRD DEFENSE

Defendant Amtrak did not owe a duty to Plaintiff.

FOURTH DEFENSE

Plaintiff's claim is barred, in whole or in part, by reason of Plaintiff's contributory negligence.

FIFTH DEFENSE

Defendant reserves the right to rely on the statute of limitations.

SIXTH DEFENSE

Any actual damages or injuries of the Plaintiff were not caused by the Defendant.

SEVENTH DEFENSE

Plaintiff has failed to mitigate her damages.

EIGHTH DEFENSE

Plaintiff's claim is bared because Plaintiff has released her right to assert it.

NINTH DEFENSE

Plaintiff s claim is barred by virtue of the principles of accord and satisfaction, waiver, and/or estoppel.

TENTH DEFENSE

Plaintiff's claim is bared by the doctrine(s) of preemption and/or preclusion.

ELEVENTH DEFENSE

Plaintiff's damages are too remote and speculative.

TWELFTH DEFENSE

Plaintiff's alleged damages were directly and proximately caused by her own acts, which intervened between the acts and conduct of Defendant and Plaintiff's alleged damages, thereby barring any recovery by Plaintiff from Defendant.

THIRTEENTH DEFENSE

Plaintiff's alleged damages were directly and proximately caused by the acts and conduct of third parties, which intervened between the acts and conduct of Defendant and Plaintiff's alleged damages, thereby barring any recovery by Plaintiff from Defendant.

FOURTEENTH DEFENSE

Plaintiff's alleged damages may have been caused by other accidents or injuries and not by the incident alleged.

FIFTEENTH DEFENSE

The Defendant reserves the right to object to venue in this matter based upon *forum non conveniens*.

SIXTEENTH DEFENSE

While specifically denying any liability whatsoever to Plaintiff, Defendant believes and therefore avers it would nonetheless be entitled to a set-off against any claim asserted by Plaintiff of such sums which have been paid by or funded by Defendant on behalf of Plaintiff. Moreover while denying that it is liable to Plaintiff in any way, Defendant believes and therefore avers to the extent it has paid and/or funded medical or other expenses of Plaintiff, Plaintiff cannot recover the same from Defendant.

SEVENTEENTH DEFENSE

Plaintiff's claims are barred by reason of assuming the risk, if any, that she encountered.

EIGHTEENTH DEFENSE

In response to the specific allegations set forth in Plaintiff's Complaint, Defendant states as follows:

1. Defendant neither admits nor denies the allegation that Plaintiff Janet Martin is a resident of the Commonwealth of Virginia as set forth in Paragraph 1 of the Complaint for lack of knowledge and demands strict proof thereof.

2. Defendant admits that it is a private corporation incorporated under the laws of the District of Columbia and at all times relevant was doing business within the jurisdiction of this Court.

3. Defendant neither admits nor denies the allegations set forth in Paragraph 3 of the Complaint for lack of knowledge and demands strict proof thereof.

4. Defendant denies that its employee acted negligently as set forth in Paragraph 4 of the Complaint. Defendant neither admits nor denies the remaining allegations as set forth in Paragraph 4 of the Complaint for lack of knowledge and demands strict proof thereof.

5. Defendant denies that Plaintiff's alleged injuries were the result of negligence by Defendant and the other allegations as set forth in Paragraph 4 of the Complaint and demands strict proof thereof.

6. Defendant reasserts its statements set forth in paragraphs 1-5 above as if fully set forth herein.

7. The allegations in Paragraph 7 call for a legal conclusion to which no response is required. To the extent that a response is required, Defendant admits that it provides rail service as transportation to paying passengers.

8. The allegations in Paragraph 8 call for a legal conclusion to which no response is required. To the extent that a response is required, Defendant neither admits nor denies that Plaintiff Martin was a ticketed passenger and the other allegations set forth in Paragraph 8 of the Complaint for lack of knowledge and demands strict proof thereof.

9. The allegations in Paragraph 9 and its subparts (a)-(b) call for legal conclusions to which no response is required. To the extent that a response is required, Defendant denies the allegations in Paragraph 9 and its subparts and demands strict proof thereof.

10. The allegations in Paragraph 10 call for a legal conclusion to which no response is required. To the extent that a response is required, Defendant denies the allegations set forth in Paragraph 10 of the Complaint and demands strict proof thereof.

11. The allegations in Paragraph 11 call for a legal conclusion to which no response is required. To the extent that a response is required, Defendant denies the allegations set forth in Paragraph 10 of the Complaint and demands strict proof thereof.

12. Defendant reasserts its statements set forth in paragraphs 1-11 above as if fully set forth herein.

13. The allegation in Paragraph 13 calls for a legal conclusion to which no response is required. To the extent that a response is required, Defendant denies the allegation set forth in Paragraph 13 of the Complaint and demands strict proof thereof.

14. The allegations in Paragraph 14 and its subparts (a)-(b) call for legal conclusions to which no response is required. To the extent that a response is required, Defendant denies the allegations in Paragraph 14 and its subparts and demands strict proof thereof.

15. The allegations in Paragraph 15 call for a legal conclusion to which no response is required. To the extent that a response is required, Defendant denies the allegation set forth in Paragraph 15 of the Complaint and demands strict proof thereof.

16. The allegations in Paragraph 16 call for a legal conclusion to which no response is required. To the extent that a response is required, Defendant denies the allegation set forth in Paragraph 16 of the Complaint and demands strict proof thereof.

17. Plaintiff's Complaint contains prayers for relief, to which no response is required. To the extent that responses are required, Defendant denies the allegations in Plaintiff's prayers for relief and demands strict proof thereof.

18. All allegations not expressly admitted herein are denied.

Respectfully submitted,

By:________________________________

J. Christopher Nosher (VSB No. 43070)
BONNER, KIERNAN, TREBACH & CROCIATA, LLP
One Park Place, Suite 425
Annapolis, Maryland 21401-3539
Telephone: (443) 263-2800
Facsimile: (443) 263-2935
cnosher@bonnerkiernan.com

Counsel for Defendant National Passenger Railroad Corporation

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND

JANET MARTIN,	:	
	:	
Plaintiff,	:	
	:	
v.	:	**Case No.: 760CL17001677-00**
	:	
NATIONAL RAILROAD PASSENGER CORPORATION, d/b/a AMTRAK,	:	
	:	
Defendant.	:	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of May 2017, the foregoing Answer and Affirmative Defenses was sent via U.S. Mail, postage prepaid, to:

John R. Newby, Esq. (VSB No. 47227)
Tronfeld West & Durrett
4020 West Broad Street
Richmond, Virginia 23230
JNewby@twdinjurylaw.com

Counsel for Plaintiff

J. Christopher Nosher (VSB No. 43070)
BONNER, KIERNAN, TREBACH & CROCIATA, LLP
One Park Place, Suite 425
Annapolis, Maryland 21401-3539
Telephone: (443) 263-2800
Facsimile: (443) 263-2935
cnosher@bonnerkiernan.com

Counsel for Defendant National Passenger Railroad Corporation